

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

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## UNITED STATES DISTRICT COURT

2022 MAR 16 PM 2:30

for the

Southern District of New York

Division

Case No.

SCHOEN M. LABOMBARD

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Officer Brian Harrell, CITY OF

NEW YORK, WARDEN OF MCC

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

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**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	<u>Schoen M. Labombard</u>		
All other names by which you have been known:	<u></u>		
ID Number	<u>19-A-2711</u>		
Current Institution	<u>Greene Corr. Facility</u>		
Address	<u>P.O. Box 975</u>		
	<u>Coxsackie,</u>	<u>N.Y.</u>	<u>12051</u>
	<small>City</small>	<small>State</small>	<small>Zip Code</small>

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

**Defendant No. 1**

Name	<u>C.O. Brian Harrell</u>		
Job or Title ( <i>if known</i> )	<u>Corrections Officer</u>		
Shield Number	<u></u>		
Employer	<u>City of New York Department of Corr.</u>		
Address	<u></u>		
	<u>Manhattan</u>	<u>N.Y.</u>	<u></u>
	<small>City</small>	<small>State</small>	<small>Zip Code</small>
<input checked="" type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

**Defendant No. 2**

Name	<u>City of New York Department of</u>		
Job or Title ( <i>if known</i> )	<u>Corrections-Law Department</u>		
Shield Number	<u>100 Centre St. Rm. 401</u>		
Employer	<u></u>		
Address	<u>Manhattan</u>		
	<u></u>	<u>N.Y.</u>	<u>10013</u>
	<small>City</small>	<small>State</small>	<small>Zip Code</small>
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

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## Defendant No. 3

Name

Warden of MCC

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐

Individual capacity

☒

Official capacity

## Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐

Individual capacity

☐

Official capacity

## II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

USCA 8th- Cruel and Unusual punishment

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

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- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Defendant Brian Harrell acted under color of law  
by using his position of authority as a Correction Officer  
to intimidate, torture and inflict harm to Plaintiff.

### III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (*explain*) \_\_\_\_\_

### IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.
- C.O. Brian Harrell inflicted severe burns with a cigarette to the Plaintiffs arm on multiple occasions on or about beginning in September 2018 til July 2019, in the kitchen garbage area in the Manhattan "Tombs" holding facility

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C. What date and approximate time did the events giving rise to your claim(s) occur?

The times that the assaults would occur were at the times whenever the Plaintiff was ordered to work.

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D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

The Plaintiff was subjected assaulted constantly over a period of months, on plaintiffs left arm area, plaintiff was compelled to cigarettes for C.O. Harrell, and turn over all proceeds to C.O. Harrell, and if the money was not correct amount, plaintiff would be burned with cigarettes on his left arm, resulting in and requiring medical attention, and pain medication to deal with the severe pain from the burns.

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#### V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Eventually the wounds from the burns caused infections that were documented by medical staff. Photographs of the injuries were taken by investigators, and a mental health referral was submitted to OMH, in an effort to help plaintiff deal with the trauma and mental health issues that developed as a direct result of the torture and assaults inflicted by C.O. Harrell. On a number of occasions, medical staff would clean wounds and apply antibiotic creams to help with the infections.

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#### VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

The Plaintiff now suffers from depression, panic attacks, PTSD, nightmares, trembles, fear of police, suicidal thoughts and lost sanity, comfort, and in a constant aggitated state. The Plaintiff seeks damages of five million US dollars/\$5.000.000 in punitive and compensatory damages.

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**VII. Exhaustion of Administrative Remedies Administrative Procedures**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

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B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☐ Yes

☐ No

☒ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☒ Do not know

If yes, which claim(s)?

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

- E. If you did file a grievance:

1. Where did you file the grievance?

N/A

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2. What did you claim in your grievance?

N/A

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3. What was the result, if any?

N/A

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4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

N/A

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

Due to fears of retaliation from staff and  
C.O. Brian Harrell

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2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

Plaintiff was interviewed by " In house " investigators from the "Tombs", whom took down a written report, and took photos of Plaintiffs arm and hand on the left side. There was also handwritten notes from Brian Harrell to plaintiff, that was turned over to them and then forwarded to N.Y.C. investigation Dept. .

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G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

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*(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)*

#### VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

NO

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☐ Yes

☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) \_\_\_\_\_

Defendant(s) \_\_\_\_\_

2. Court *(if federal court, name the district; if state court, name the county and State)*

\_\_\_\_\_

3. Docket or index number

\_\_\_\_\_

4. Name of Judge assigned to your case

\_\_\_\_\_

5. Approximate date of filing lawsuit

\_\_\_\_\_

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

\_\_\_\_\_

**IX. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: \_\_\_\_\_

Signature of Plaintiff

Printed Name of Plaintiff

Mr. Schoen M. Labhombard

Prison Identification #

19-A-2711

Prison Address

Greene Corr. Facility

P.O. Box 975

N.Y.

12051

City

State

Zip Code

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

GREENE CORRECTIONAL FACILITY  
P.O. BOX 975  
COXSACKIE, NEW YORK 12051-0975

NAME: Mr. S. Labombard DIN: 19-A-2711

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SOUTHERN NEW YORK

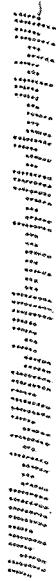
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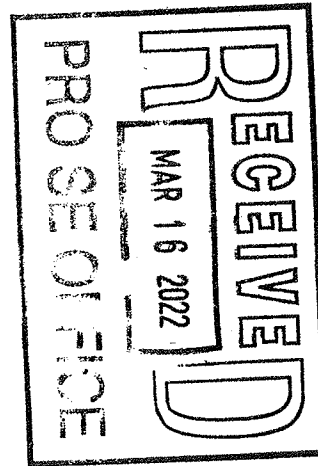
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NAME: Mr. S. Labombard DIN: 19-A-2711

NEW YORK STATE  
DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION  
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